

CABOTAGE

JONES ACT - TRANSPORTATION OF MERCHANDISE. See Section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), page 260, *supra*.

TRANSPORTATION OF PASSENGERS. THE ACT OF JUNE 19, 1886, AS AMENDED. 1 (46 App. U.S.C. 289 (2002)). No foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of two hundred dollars for each passenger so transported and landed.

Coastwise Trade Vessel Requirement. 46 U.S.C. 3704 (2002). Coastwise trade vessels.

A segregated ballast tank, a crude oil washing system, or an inert gas system, required by this chapter or a regulation prescribed under this chapter, on a vessel entitled to engage in the coastwise trade under section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), shall be installed in the United States (except the trust territories). A vessel failing to comply with this section may not engage in the coastwise trade.

BOWATERS AMENDMENT - TRANSPORTATION OF MERCHANDISE. See Section 27A of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883-1), page 265, *supra*.

PUERTO RICO PASSENGER SHIP ACT. PUBLIC LAW 98-563 (46 App. U.S.C. 289c (2002)).

(a) **Authorization of Transportation.** Notwithstanding any other provision of law, passengers may be transported on passenger vessels not qualified to engage in the coastwise trade between ports in Puerto Rico and other ports in the United States, directly or by way of a foreign port, except as otherwise provided in this Act.

(b) **Notification by Secretary; Termination of Services.**

(1) Upon a showing to the Secretary of Transportation, by the vessel owner or charterer, that service aboard a United States passenger vessel qualified to engage in the coastwise trade is being offered or advertised pursuant to a certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 App. U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each vessel transporting passengers under authority of this Act that he shall, within 270 days after notification, terminate all such service. Coastwise privileges granted to every owner or operator under this Act shall expire on the 270th day following the Secretary's notification.

(2) Upon a showing to the Secretary, by the vessel owner or charterer, that service aboard a United States passenger vessel not qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 App. U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each foreign-flag vessel transporting passengers under authority of this Act that he shall, within 270 days after

notification, terminate all such service. Coastwise privileges granted to every owner or operator of a foreign-flag vessel transporting passengers under authority of this Act shall expire on the 270th day following the Secretary's notification.

(c) **Extension of Termination Period.** If, at the expiration of the 270-day period specified in subsections (b)(1) and (b)(2) of this Act, the vessel that has been offering or advertising service pursuant to a certificate described in either of those subsections has not entered the coastwise passenger trade between ports in Puerto Rico and other ports in the United States, then the termination of service required by either of those subsections shall not be required until 90 days following the entry into that trade by the United States vessel.

(d) **Reinstatement of Coastwise Privileges.** Any coastwise privileges granted in this Act that expire under subsection (b)(1) or (b)(2) shall be reinstated upon a determination by the Secretary that the service on which the expiration of the privileges was based is no longer available.

(e) **"Passenger Vessel" Defined.** For the purposes of subsections (b)(1) and (b)(2), the term "passenger vessel" means any vessel of similar size or offering service comparable to any other vessel transporting passengers under authority of this Act.

VESSELS THAT MAY ENGAGE IN DREDGING 3 (46 App. U.S.C. 292 (2002)).

(a) **In General.** Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if_

(1) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 and section 2 of the Shipping Act, 1916 for engaging in the coastwise trade;

(2) when chartered, the charterer of the vessel is a citizen of the United States under section 2 of the Shipping Act, 1916⁴ for engaging in the coastwise trade; and

(3) for a vessel that is at least 5 net tons, the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

(b) **Exception.** A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

(c) **Penalty.** When a vessel is operated in knowing violation of this section, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

USE OF FOREIGN VESSELS IN UNITED STATES PORTS. (46 App. U.S.C. 316 (2002)).

(a) **Towing United States Vessels; Fines and Penalties.** It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels⁵ and not having in force a certificate of documentation issued under section 12106 of title 46, United States Code, to tow any vessel other than a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbors of such places, or to tow any vessel transporting valueless material or any dredged material, regardless of whether it has commercial value, from a

point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than \$ 250 nor more than \$ 1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of \$ 50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit.

- b. **"Person" Defined.** The term "person" as used in subsection (a) of this section, shall be held to include persons, firms, partnerships, associations, organizations, and corporations, doing business or existing under or by the authority of the laws of the United States, or of any State, Territory, district, or other subdivision thereof.

(c) **Foreign Railroad Companies using Ferries, Tugboats, or Towboats.** Any foreign railroad company or corporation, whose road enters the United States by means of a ferry, tugboat, or towboat, may own such vessel and operate the same in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by such road, together with the passengers, freight, express matter, baggage, and mails transported in such cars, without being subject to any other or different restrictions than those imposed by law on any vessel of the United States entering ports of the United States from ports in the same foreign country: Provided, That except as authorized by section 27 of the Merchant Marine Act, 1920, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 883), such ferry, tugboat, or towboat shall not, under penalty of forfeiture, be used in connection with the transportation of any merchandise shipped from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same.

(d) **Salvaging Operations by Foreign Vessels.** No foreign vessel shall, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or in accordance with the provisions of the Act of June 19, 1878, as amended (U. S. C., 1934 edition, title 46, sec. 725): Provided, however, That if, on investigation, the Secretary of Commerce⁶ is satisfied that no suitable vessel wholly owned by a person who is a citizen of the United States and documented under the laws of the United States or numbered pursuant to the Act of June 7, 1918, as amended (U. S. C., 1934 edition, Supp. IV, title 46, sec. 288), is available in any particular locality he may authorize the use of a foreign vessel or vessels in salvaging operations in that locality and no penalty shall be incurred for such authorized use.

(e) **Operations Permitted by Treaty.** Nothing in this section shall be held or construed to prohibit or restrict any assistance to vessels or salvage operations authorized by article II of the treaty between the United States and Great Britain _concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage_ signed at Washington, May 18, 1908 (35 Stat. 2036), or by the treaty between the United States and

Mexico _to facilitate assistance to and salvage of vessels in territorial waters,_ signed at Mexico City, June 13, 1935 (49 Stat. 3359).

VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE

There are two provisions of law addressing this situation. Section 1119 of Public Law 105-554, approved December 21, 2000 (114 STAT. 2763A-209), the Consolidated Appropriations Act, 2001, and Section 404 of Public Law 107-295, approved November 25, 2002 (116 STAT. 2114), the Maritime Transportation Security Act of 2002. This provisions follow:

SEC. 404. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE.

(a) **In General.** Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following escort vessel operations within the navigable waters of the United States:

(1) Operations that commence or terminate at a port or place in the United States.

(2) Operations required by United States law or regulation.

(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) **Addition to Towing Vessel.** In the case of a vessel being towed under section 4370 of the Revised Statutes of the United States (46 App. U.S.C. 316(a)), an escort vessel is any vessel assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

(c) **Relationship to Other Law.** Nothing in this section shall affect or be construed or interpreted to affect or modify section 4370 of the Revised Statutes of the United States (46 U.S.C. 316(a)).

(d) **Definition.** In this section, the term "escort vessel" means any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation.

(e) **Penalty.** A person violating this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs.

SEC. 1119. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE.

(a) **IN GENERAL.** Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following vessel escort operations and vessel towing assistance within the navigable waters of the United States:

(1) Operations or assistance that commences or terminates at a port or place in the United States.

(2) Operations or assistance required by United States law or regulation.

(3) Operations provided in whole or in part for the purpose of escorting or assisting a vessel within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to such facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) DEFINITIONS. Unless otherwise defined by a provision of law or regulation requiring that towing assistance or escort be rendered to vessels transiting United States waters or navigation facilities, for purposes of this section_

(1) the term "towing assistance" means operations by an assisting vessel in direct contact with an assisted vessel (including hull-to-hull, by towline, including if only pre-tethered, or made fast to that vessel by 1 or more lines) for purposes of exerting force on the assisted vessel to control or to assist in controlling the movement of the assisted vessel; and

(2) the term "escort operations" means accompanying a vessel for the purpose of providing towing or towing assistance to the vessel.

WRECKED VESSELS ACT (46 App. U.S.C. 14 (2002)). The Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for any vessel wrecked on the coasts of the United States or her possessions or adjacent waters, when purchased by a citizen or citizens of the United States and thereupon repaired in a shipyard in the United States or her possessions, if it shall be proved to the satisfaction of the Secretary of Transportation, if he deems it necessary, through a board of three appraisers appointed by him, that the said repairs put upon such vessels are equal to three times the appraised salved value of the vessel: Provided, That the expense of the appraisal herein provided for shall be borne by the owner of the vessel: Provided further, That if any of the material matters of fact sworn to or represented by the owner, or at his instance, to obtain the register of any vessel are not true, there shall be a forfeiture to the United States of the vessel in respect to which the oath shall have been made, together with tackle, apparel, and furniture thereof.

SEC. 1117. USE OF FOREIGN REGISTRY OIL SPILL RESPONSE VESSELS.⁷

Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if_

(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

(2) that foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of that foreign country under this section.

VESSEL TO TRANSPORT LNG TO PUERTO RICO

(f) **Certificate of Documentation for a Liquefied Gas Tanker.** Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156) and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquefied natural gas or liquefied petroleum gas to the Commonwealth of Puerto Rico from other ports in the United States, if the vessel _

(1) is a foreign built vessel that was built prior to the date of enactment of this Act; or

(2) is documented under chapter 121 of title 46, United States Code, before the date of enactment of this Act, even if the vessel is placed under a foreign registry and subsequently redocumented under that chapter for operation under this section.

46 App. U.S.C. 446b (2002). Sailing school vessel without status of merchant vessel or vessel engaged in trade or commerce. For the purposes of section 3 of the Act of February 17, 1898 (46 U.S.C. 291), section 11101(a)-(c) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), a sailing school vessel shall not be deemed to be a merchant vessel or a vessel engaged in trade or commerce.

MISCELLANEOUS PROVISIONS:

46 App. U.S.C. 289a (2002). Transportation of passengers in Canadian vessels between Rochester and Alexandria Bay. Until such time as passenger service shall be established by vessels of the United States between the port of Rochester, New York, and the port of Alexandria Bay, New York, the Secretary of Commerce⁹ is authorized in his discretion to issue annually permits to Canadian passenger vessels to transport passengers between these ports; such Canadian vessels holding such permits not to be subject to the provisions of section 8 of the Act of June 19, 1886, as amended by section 2 of the Act of February 17, 1898.

46 App. U.S.C. 289b (2002). Transportation of passengers and merchandise in Canadian vessels between points in Alaska and the United States. Notwithstanding the provisions of law of the United States restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from any port in the United States to another port of the United States, passengers may be transported on Canadian vessels between ports in southeastern Alaska, and passengers and merchandise may be transported on Canadian vessels between Hyder, Alaska, and other points in southeastern Alaska, and between Hyder, Alaska, and other points in the United States outside Alaska, either directly or via a foreign port, or for any part of the transportation until the Secretary of Transportation determines that United States-flag service is available to provide such transportation.